

DOWD, J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Dennis Bogard,	)	
	)	CASE NO. 1:12 CV 02509
Plaintiff,	)	
	)	
v.	)	<u>MEMORANDUM OPINION AND</u>
	)	<u>ORDER</u>
National Credit Consultants,	)	
	)	
Defendant.	)	
	)	

The Court referred this case to Magistrate Judge Limbert for general pre-trial supervision on October 24, 2012. Defendant was served with plaintiff's complaint in this action alleging violation of the federal Fair Debt Collection Practices Act (FDCPA) (15 U.S.C. § 1692 et seq.), Ohio Consumer Sales Practices Act (OCSA) (Ohio Revised Code § 1345.01), and common law fraud and conversion under Ohio law. Plaintiff avers that he authorized defendant National Credit Consultants to deduct a one-time only payment from his checking account in order to help a friend from whom defendant was attempting to collect a debt, but alleges that defendant made two additional deductions from plaintiff's checking account without his authorization.

Defendant was served with plaintiff's complaint, however, defendant did not file a responsive pleading or otherwise appear in this case. Default was entered against defendant on December 4, 2012, and a copy of the default entry mailed to defendant by certified mail. ECF 5 and 6.

Pursuant to Rule 55 of the Federal Rules of Civil Procedure, plaintiff seeks default judgment against defendant National Credit Consultants, LLC in the amount of \$4,443.50. In

support of its motion, plaintiff filed a brief, affidavit of plaintiff's counsel, and attorney time sheets.

Magistrate Judge Limbert issued a Report and Recommendation recommending that plaintiff's motion for default judgment be granted, concluding that the factual allegations in the complaint are sufficient to state a claim for relief as to the causes of action for which plaintiff seeks default judgment. Further, Magistrate Judge Limbert recommends that judgment be entered against defendant in the amount of \$4,443.50, concluding that the information and documentation provided by plaintiff in the complaint and in support of default judgment provide a sufficient basis for determining damages without the need for an evidentiary hearing. ECF 9.

A copy of Magistrate Judge Limbert's Report and Recommendation was mailed to defendant National Credit Consultants, LLC at its address of record c/o Essence Burks, 2470 Windy Hill Road, Marietta, GA 300067 on April 26, 2013. See Filing Date 4/26/2013.

Under the relevant statute:

[T] magistrate judge shall file [her] proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties.

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1)(C).

No objections have been filed to Magistrate Judge Limbert's Report and Recommendation. The failure to file written objections to a Magistrate Judge's report and recommendation constitutes a waiver of a *de novo* determination by the district court of an issue

covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the Magistrate Judge Limbert's well-reasoned Report and Recommendation and adopts the same. Accordingly, plaintiff Dennis Bogard's motion for default judgment (ECF 7 and 8) in the amount of \$4,443.50 against defendant is GRANTED.

The Clerk shall mail a copy of this Memorandum Opinion and Order to defendant National Credit Consultants, LLC at its address of record. The Court will separately publish a Judgment Entry.

IT IS SO ORDERED.

May 20, 2013  
Date

s/ David D. Dowd, Jr.  
David D. Dowd, Jr.  
U.S. District Judge